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8 **BEFORE THE**
CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. OT 2011-373

12 **HEATHER LYNN NEFF**
750 N. Kings Road, #118
13 West Hollywood, CA 90061

A C C U S A T I O N

14 Occupational Therapist License No. OT 7629

15 Respondent.
16

17 Complainant alleges:

18 **PARTIES**

19 1. Heather Martin (Complainant) brings this Accusation solely in her official capacity as
20 the Executive Officer of the California Board of Occupational Therapy, Department of Consumer
21 Affairs (Board).

22 2. On or about May 28, 2004, the Board issued Occupational Therapist License No. OT
23 7629 to Heather Lynn Neff (Respondent). The license was in full force and effect at all times
24 relevant to the charges brought herein and will expire on August 31, 2013, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board under the authority of the following
27 laws. All section references are to the Business and Professions Code unless otherwise indicated.
28

4. Section 118, subdivision (b) provides, in pertinent part, that a license's expiration shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued, or reinstated.

STATUTES

5. In relevant part, Section 490 authorizes boards to discipline licensees for substantially-related criminal convictions:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.”

6. In relevant part, section 2570.28 specifically authorizes this Board to discipline occupational therapists for unprofessional conduct and substantially-related criminal convictions:

"The board may deny or discipline a licensee for any of the following:

(a) Unprofessional conduct

• • •

(e) Conviction of a crime or of any offense substantially related to the qualifications, functions, or duties of a licensee, in which event the record of the conviction shall be conclusive evidence thereof."

7. In relevant part, section 2570.29 authorizes discipline for certain misconduct involving alcohol or substance abuse:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter, it is unprofessional conduct for a person licensed under this chapter to do any of the following:

• • • •

1 (b) Use to an extent or in a manner dangerous or injurious to himself or
2 herself, to any other person, or to the public, or that impairs his or her ability to
conduct with safety to the public the practice authorized by his or her license, of any
of the following:

3 (1) A controlled substance as defined in Division 10
(commencing with Section 11000) of the Health and Safety Code.

4 (2) A dangerous drug or dangerous device as defined in Section
5 4022.

6 (3) Alcoholic beverages.

7 (c) Be convicted of a criminal offense involving the prescription,
consumption, or self-administration of any of the substances described in
8 subdivisions (a) and (b) of this section, or the possession of, or falsification of a
record pertaining to, the substances described in subdivision (a) of this section, in
which event the record of the conviction is conclusive evidence thereof."

9 **BOARD REGULATIONS**

10 8. In relevant part, section 4146 subdivision (d) of Title 16 of the California Code of
11 Regulations provides criteria for determining when a criminal conviction is related to the practice
12 of occupational therapy:

13 "(d) For the purposes of denial, suspension, or revocation of a license, a
14 crime or act shall be considered to be "substantially related to the qualifications,
functions or duties of an occupational therapy practitioner," if it evidences present or
15 potential unfitness of a licensee to perform the functions authorized by his or her
license or in a manner inconsistent with the public health, safety, or welfare. Such
16 crimes or acts include, but are not limited to, those involving the following:

17 ...

18 (3) An incident involving controlled substances or alcohol to the extent
that practice is impaired or a threat to the health or safety of themselves or others."

19 **COST RECOVERY**

20 9. Section 125.3 authorizes the Board to request the administrative law judge to direct a
21 licensee found to have committed a violation or violations of the licensing act to pay a sum not
22 to exceed the reasonable costs of the investigation and enforcement of the case.

23 **FIRST CAUSE FOR DISCIPLINE**

24 **(Conviction of Substantially-Related Crimes)**

25 10. Respondent is subject to disciplinary action under sections 490 and 2570.28
26 subdivision (e), in conjunction with California Code of Regulations, title 16, section 4146, in that
27 she was convicted of driving under the influence and hit-and-run, crimes involving alcohol
28 consumption to the extent that she was a threat to the health or safety of herself or others.

1 11. On July 6, 2012, after pleading nolo contendere, Respondent was convicted of one
2 misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving while
3 having 0.08% or more, by weight, of alcohol in her blood] and one misdemeanor count of
4 violating Vehicle Code section 20002, subdivision (a) [hit and run with property damage] in the
5 criminal proceeding entitled *People v. Heather Lynn Neff* (Super. Ct. Los Angeles County, 2012,
6 No. 2BV00854). The Court placed her on 36 months' probation, ordered her to complete a nine-
7 month first-offender alcohol abuse program, and ordered her to install an ignition interlock device
8 on her vehicle for one year.

9 12. The circumstances surrounding the conviction are that on March 25, 2012 in the City
10 of West Hollywood, Respondent drove while intoxicated, hit the bumper of a car stopped at a
11 stop light, and drove off. After being pursued by the other driver, she stopped. She was then
12 detained by Los Angeles County Sheriff's officers. At the station, they gave her a breathalyzer
13 test, which showed she had a .34% blood alcohol content.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Conviction of an Alcohol-Related Crime)**

16 13. Respondent is also subject to disciplinary action for unprofessional under section
17 2570.28 subdivision (a) (authorizing discipline for unprofessional conduct) as defined in section
18 2570.29 subdivision (c) (conviction of offense involving alcohol self-administration is
19 unprofessional conduct) because on July 6, 2012, she was convicted of driving under the
20 influence and hit-and-run, both of which involved alcohol consumption.

21 14. Complainant realleges paragraphs 11 and 12.

22 **THIRD CAUSE FOR DISCIPLINE**

23 **(Dangerous Use of Alcohol)**

24 15. Respondent is subject to disciplinary action for unprofessional under section 2570.28
25 subdivision (a) (authorizing discipline for unprofessional conduct) as defined in section 2570.29
26 subdivision (b) (dangerous or injurious use of alcohol is unprofessional conduct) because on or
27 about March 25, 2012, she drank alcohol to the extent she was dangerous or injurious to herself or
28 others.

16. Complainant realleges paragraphs 11 and 12.

PRAYER


WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Occupational Therapist License No. OT 7629, issued to Heather Lynn Neff;

2. Ordering Heather Lynn Neff to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: 2 July 2013


HEATHER MARTIN
Executive Officer
California Board of Occupational Therapy
Department of Consumer Affairs
State of California
Complainant

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